RAJYA SABHA

Monday, the 28th May, 1990/7th Jyaistha, 1912 (Saka)

The House met at eleven of the clock,

Mr. Chairaman in the Chair.

MEMBER SWORN

Shri Nyodek Yoggam
(Arunachal Pradesh)

OBITUARY REFERENCE

MR. CHAIRMAN: Honb'le Members, I refer with profound sorrow to the passing away of Shri K.S. Hegde, a former Member of this House from the erstwhile State of Madras.

Shri K.S. Hegde was born in June 1910 at village Kawdoor, Kankala Taluk, in South Kanara District and had his education at the Presidency College and Law College, Madras. Shri Hegde was a Member of this House from 3.4.52 to 21.8.57. He was a Member of the Lok Sabha from 1977 to 1980.

A distinguished jurist and erudite scholar, Shri K.S. Hegde was appointed a Judge of the High Court of Mysore in 1957 whereafter he resigned from the membership of this House, later he was Chief Justice of Delhi and Himachal Pradesh High Court during 1966-67. He served as a Judge of the Supreme Court of India from 1967 to 1973.

During the membership of this House he served on the panel of Vice-Chairmen and presided over the deliberations of the House with great distinction. He was elected Speaker of the Lok Sabha in 1977, which office he occupied with great competence and distinction until 1980.

We deeply mourn the passing away of Shri K.S. Hegde.

I request the Members to rise in their places and observe silence as a mark of respect to the memory of the departed.

[Hon. Members then stood in silence for one minute]

MR. CHAIRMAN: Secretary-General will convey to the members of the bereaved family our deep sense of sorrow and profound sympathy.

ORAL ANSWERS TO QUESTIONS

*361 *[The questioners (Shri Ajit P.K. Jogi and Shri Chhotubhai Patel) were absent for answer* vide *col* 29 infra]

Fixation of Trade Commission by Drug Companies

*362. SHRI RAJNI RAJAN SAHU:† CHOWDHARY RAM SEWAK: Will the Minister of PETROLEUM AND CHEMICALS be pleased to state:

(a) whether it is a fact that the drug companies have refused to give details to the Bhatti Committee appointed to study trade commission issue;

(b) if so, how was the study made by the Committee without the details;

(c) what is the source from which the committee collected the facts;

(d) what is the total expenditure incurred by Government on this study;

(e) whether it is a fact that his Ministry increased mark ups in the DPCO, 1987;

(f) if so, on what basis the increase was allowed;

(g) what were the considerations on which his Ministry fixed trade commission for category I and II at 16% or 28% and 32%, repectively of the ex-factory cost;

(h) whether it is a fact that his Ministry did not consider product discounts offered by manufacturers while fixing trade commission; and

(i) if so, what are the reasons therefor?

†The question was actually asked on the floor of the House by Shri Rajni Ranjan Sahu

THE MINISTER OF PETROLEUM AND CHEMICALS (SHRI M.S. GURUPADASWAMY): (a) to (i) A statement is laid on the Table of the House.

Statement

(a) to (c) The National Council of Applied Economic Research conducted the survey and obtained information on the subject. The Bhatty Committee itself met leaders of the Traders' Association for discussions. The Bhatty Committee has utilised the data of NCAER survey. It also ascertained facts from All India Organisation of Chemists and Druggists and Association of Manufacturers. The source of the information for the survey that was conducted by NCAER for the benefit of the Committee was a sample of traders, both retailers and wholesalers, spread over 77 towns in ten states. Information from over 1200 retailers and wholesalers was collected.

(d) The National Council of Applied Economic Research carried out the survey and the study at a cost of Rs. 5.6 lakhs.

(e) to (i) In the Policy measures announced in 1986, Government increased Maximum Allowable Post Manufacturing Expenses (MAPE) for Category I and Category II formulations which was incorporated in the Drugs (Prices Control) Order, 1987. Since there was an increase in the MAPE, its benefit was also passed on to the trade by increasing the trade margin. The trade margin, however, was based on the recommendations made by the Inter-Ministerial Committee constituted by the Department of Chemicals & Petrochemicals under the Chairmanship of Chairman, Bureau of Industrial Costs and Prices (BICP). The existing trade margin for retailers is 16% only.

SHRI RAJNI RANJAN SAHU: Mr. Chairman, Sir, the question is related to the price of medicine which is increasing by leaps and bounds every day. Although we do not have to pay the price of medicine, the poor people have to pay through their nose because the prices have increased by 200 per cent to 300 per cent. The Bhatty Committee was appointed sometime in 1988 to look after the grievances of the people who had complained to the Government that the prices of medicines were being charged exorbitantly and without sanction of the Government due to arbitrary fixing of Trade Commission. This Committee has submitted its report in March, 1990. I would like to know from the hon. Minister whether the trade commission allowed by the company is equivalent or is at par with that of other essential commodities or it is much more. I will just quote an example to clear my supplementary that the Drug Price Control Order, 1987, allowed 16 per cent commission to the retailers and 8 per cent commission to the wholesalers, whereas the company is giving 20 to 30 per cent commission. So, this high rate of commission is affecting the price of medicines and that is one of the reasons for the price of medicines being very high, whereas nowhere the price of essential commodities has gone up like this. So, what is the difference in the trade commission allowed in medicine, i.e. in medicinal trade and in other commodities? That is may first supplementary.

SHRI M. S. GURUPADASWAMY: Sir, the Government has taken note of the price paid by the consumer. We are aware that the prices of certain drugs are high. We are not very sure how much these prices are high. The Bhatty Committee has given a draft report, and that report deals with trade margins and some other aspects which are related to trade margins. As my friends is aware, for the retailer the trade margin allowed is 16 per cent. For the wholesaler it was 2 per cent earlier. Now it is 3 per cent.

We are examining the other issues which he has raised, that the manufacturers are allowing more than 16 per cent trade margin. By implication, he has said that the prices quoted in the

market for drugs are very high and that the consumers have to pay these high prices. All these issues are being looked into. The hon. Member knows that we have constituted a standing committee in my Minsitry. They have called for all information. I have myself met various interests. Consumers' organisations met me, and also producers. I am convening a meeting in Bombay in the near future, and I am calling in that meeting all the interests concerned, the producers, the consumers and the distributors so that we may have interaction. This Committee which has been set up is also going through the whole question now and Bhatty Committee's report also will be taken into consideration. I have given a sort of deadline for this Committee that by the end of June at least we must be able to reach certain conclusions. Then, the picture will be clear.

SHRI RAJNI RANJAN SAHU: Mr. Chairman, Sir, I am thankful to the Minister that he is taking pains to look into the matter personally. Just now he has also said that a Committee has been constituted. I would request the hon. Minister, through you, to associate Members of Parliament from this House as well as the other House besides producers to ventilate the people's grievances in the Committee.

In 1979 the Hathi Committee after some analysis recommended trade commission based on certain rationality. But in 1987 under the DPCO, 1986 this commission was arbitrarily raised without giving any analysis. Afterwards the Bhatty Committee was appointed.

MR. CHAIRMAN: Kindly put your supplementary.

SHRI RAJNI RANJAN SAHU: I am coming to that. I would like to know what is the analysis followed in raising the trade commission? What is the detailed report of the Bhatty Committee? May I know from the hon Minister whether he will lay this report on the Table of the House?

SHRI M.S. GURUPADASWAMY: Sir, under the DPCO, 1979, that is based upon the Hathi Committee report, trade margin fixed for the wholesalers was 2 per cent, for non-ethical drugs the margin fixed was 10 per cent and for the ethical side 12 per cent. Now, Sir, under DPCO, 1987 this was revised, my friend is aware of it. The trade margin was increased to 6 per cent overall and 3 per cent is given to wholesalers and 16 per cent to retailers.

SHRI RAJNI RANJAN SAHU: This was done arbitrarily.

SHRI M.S. GURUPADASWAMY: My friend says "This was done arbitrarily." This is also being looked into, whether it was arbitrary and if so to what extent it was arbitrary. We have called for full information from all the manufacturers and traders. We are meeting manufacturers, distributors and consumers together. As I said earlier, after going through this exercise, perhaps, we would be arriving at certain conclusions.

Regarding the other one, what recommendations the Bhatty Committee has made, they are a draft. The final report has not yet been submitted and this draft is being considered by my Ministry.

श्री चतुरानन मिश्र: सभापति महोदय, मंत्री महोदय ने कहा कि कमेटी बिठायी है, जो इसकी जांच करेगी और रिपोर्ट देगी यह तो ठीक है। लेकिन बात यह हो रही है कि इधर दाम बढ़ गया और हम कमेटी बिठाए हुए हैं। तो इस बीच में जो पब्लिक से ज्यादा रुपया ले लिया जाएगा, उस का भी कोई रिफरेंस है उस कमेटी को? यह मैं सरकार से जानना चाहता हूं क्योंकि कभी ऐसा नहीं होता है कि जो आर्बिट्रेरी दाम बढ़ा दिया, उस को कभी हम रिटर्न कर दें क्योंकि रिटर्न तो कंजूमर्स को नहीं करवाया जा सकता। इसलिए मैं जानना चाहता हूं कि उस की टर्म्स ऑफ रिफरेंस में ऐसा है कि नहीं? दूसरी बात, मैं यह भी जानना चाहता हूं, ठीक है कि किसी चीज को आप ने डिकंट्रोल कर दिया, लेकिन जब प्राइस बढ़ाने की बात आए तब कम-से-कम सरकार से पूछ तो लिया जाए कि क्यों बढ़ा रहे हैं? तीसरी बात जब सरकार ने कमीशन

बढ़ा दिया होलसेलर्स का और वह भी परसैंटेज में बढ़ाया है और रिटेल का भी बढ़ाया है और वह भी हायर साइड में गया है, तो कम से कम पहले स्टेट्स को मेनटेन करवा दे सरकार। यह पासिबल है सरकार के लिए? इन तीन बिन्दुओं पर जानना चाहते हैं।

SHRI M. S. GURUPADASWAMY: Sir, he has raised questions which require a lot of time. Anyway, I will try to be brief. May I say the thrust of our policy at the present moment is to see that all the interests involved in the drug industry—the manufacturers, the traders and the consumers—are harmonised and the main thing is, the National Front Government is committed to a drug policy which ensures availability of quality drugs at reasonable prices. It is a very very broad statement made and we are committed to that. We are keeping that in view. Sir, the problem is, there has been tremendous escalation in the cost of production. That cannot be overlooked and at the same time, the consumers' interests also cannot be overlooked. We have to marry these two and in between the distributor comes in, the trader comes in. Therefore, my main thrust is to see that at least in as many cases of drugs as possible, the prices are brought down. That is my interest. But I cannot make an arbitrary decision in the matter. I have got to go through various types of data and we are collecting it at the present moment. Let me assure my friends that my interests and your interests are the same and that is basic—the poorer sections particularly should not be exploited by the manufacturers and at the same time, I have to assure the manufacturers a margin which give them investible surplus so that the industry may grow and the export also may grow.

श्री चतुरानन मिश्र: महोदय, जो मुख्य सवाल मैंने पूछा था, उसका जवाब नहीं आया। अगर कमेटी के पास यह टर्म्स आफ रिफरेंस है, स्पीच में उन्होंने कह दिया **(व्यवधान)**..

MR. CHAIRMAN: If they have paid more, they have taken more. *(Interruptions).*

SHRI CHATURANAN MISHRA: And do you think it can be realised ? If they charged excess amount and if the Committee so finds, how are you going to realise it and reimburse it to the consumers?

SHRI M.S. GURUPADASWAMY: In those cases where courts have decided in the past—and there are quite a few cases which have been decided and the Ministry is examining those cases—in those cases, we want to recover the over-charged amount and that exercise is being done. We are trying our best to fix the amount. *(Interruption).* Just a minute.

MR. CHAIRMAN: He is trying to do it.

SHRI M.S. GURUPADASWAMY: This is a separate question.

SHRI CHATURANAN MISHRA: How can you realise it?

SHRI M.S. GURUPADASWAMY: This is a separate question altogether but still I am trying to reply to him and the money goes to the Government and the Government also pays it to the industry and the consumers.

SHRI CHATURANAN MISHRA The consumers have been .*(Interruption).* My point was ...*(Interruptions).*

श्री सभापति: मैं समझ गया, वह भी समझ गये, जवाब भी हो गया।

श्री रजनी रंजन साहू: आपकी सरकार ..**(व्यवधान)**..

श्री चतुरानन मिश्र: पहले तो आप विदड्रोस्पेक्टिव अफेक्ट वापिस कर देते थे, भूल गए क्या? आप ही के किए हुए पाप हैं, जो यह ढोते चले जा रहे हैं।

SHRI KAMAL MORARKA: Sir, the Drug Price Control Order is a very important matter because it affects the

small consumers all over the country. My question regarding this is in two parts. Firstly, the number of drugs included in the order. Sir, there is always a controversy which drug should be included and which drug should be excluded. Sir, the Hathi Committee which was very much pro-consumers...

MR. CHAIRMAN: Come to the question.

SHRI KAMAL MORARKA: And it appears that the controversy is still there. I want to know what is the difficulty for the Government to take the WHO list which has been prepared by the WHO for developing countries. After taking into consideration the types of illnesses, the types of life saving drugs etc. they have made a comprehensive list of some 200 odd drugs. I want to know this specifically. What is the difficulty in the Government of India adopting that list as it is? That will obviate all the controversies as to what is essential and what is not essential. Now I come to the second part of my question. On this trade margin, there were already discussions here, that is on the Drug Prices Control Order. Will the review committee differentiate the manufacturers' margin and the traders' margin so that we know how much margin the manufacturers are making and how much margin the middlemen are making and arrive at a correct price.

SHRI M.S. GURUPADASWAMY: In answer to the second part of the question, I say that the Government has fixed up, under the DPCO, two mark-ups. In the case of List-A, it deals with drugs which deal with the National Health Programme. And List-B, Category II, deals with all the other essential drugs. They are essential, but they are not so essential as in the first category. So, in respect of those drugs which are under Category-I, the mark-up given is 75 per cent and in the second category, it is 100 per cent. These 75 per cent and 100 per cent include the margins. They are part of the mark-up. Therefore, the rest of it goes to the manufacturer. As for the other one, WHO, we have the list with us. In the past, the Kelkar Committee had gone into the whole question and on the basis of that Committee's recommendations, these two schedules have been drawn up. And the drugs included in the lists have been kept to the minimum. They were reduced. In the earlier lists, drugs included were more. But now we are looking into the whole question as to what drugs should and what drugs should not go into the second list. These things are under review. I am not making a new policy. But the old policy is being reviewed and if there are lapses, if there are omissions and commissions, if there are draw-backs, they will be remedied as early as possible.

SHRI JAGESH DESAI: Mr. Chairman, Sir, just now the Minister said that the Committee has to submit the report by 30th June. Hardly one month remains. And as far as I understand, the work is so big that they will not be able to report by 30th June. You are going to discuss with traders and manufacturers also. Have you called a meeting of the traders and manufacturers? Just now you said that the cost of production has gone very high. If the cost of production goes up, the selling price also goes up. Now you have increased the commission. The commission is now based on the selling price. And the selling price has gone up very high. Then the amount of commission will also be very high. So, because it will take a long time, will the Government, in the meantime, bring down the rate of commission to both the manufacturers and retailers to the earleir level?

SHRI M. S. GURUPADASWAMY: Sir, the DPCO has fixed these margins earlier and this matter is being looked into, as I said already. The whole question requires a thorough review. It is true that the material is voluminous and very time-consuming. I am aware of it. Still, my friend may be aware that we do

not wait for the standing committee to go through all this material and advise us. I brought 21 bulk drugs under price control recently, at the beginning of this Session of Parliament. And these 21 bulk drugs are the base for 164 formulations. From the overall point of view, they may look small. But it is a big figure: 164 formulations have been affected. The prices of these formulations have been brought down. Industries are also co-operating. I must appreciate this. We are bringing down the prices of these formulations. I am not waiting for the recommendations of the Standing Committee. Wherever I find that a drug is charged more, I am bringing that drug under control and fixing the price.

*363 *[Transferred to the 24th May, 1990.]*

*364 *[The questioner (Shri Ram Naresh Yadav) was absent for answers* vide *col.* 29 *infra]*

Curb on foreign brand names in consumer goods industry

*365 SHRI GURUDAS DAS GUPTA:

SHRI DIPEN GHOSH:

Will the Minister of INDUSTRY be pleased to state:

(a) whether Government propose to put a ban on the use of foreign brand names (owned by multinationals) in consumer goods industry; and

(b) if so, what steps are proposed to be taken to develop and encourage Indian brand names for use in consumer goods industry?

THE MINISTER OF STATE IN THE DEPARTMENT OF SMALL SCALE INDUSTRIES AND AGRO AND RURAL INDUSTRIES IN THE MINISTRY OF INDUSTRY (SHRI SRIKANTA JENA): (a) and (b) A Statement is laid on the Table of the House.

Statement

(a) and (b) Under the Trade & Merchandise Marks Act, 1958 (T&MM Act) there is no separate definition of foreign trade mark. Under the existing law, there is no restriction on the use of foreign trade marks, if it does not involve any direct or indirect consideration in foreign exchange. Further, trade marks can be used without registration or before or after the expiry of the registration without protection afforded by the T&MM Act.

While granting foreign collaboration approvals, a standard condition is stipulated that foreign brand names will not be allowed for use on the products for internal sales, although there is no objection to their use on products to be exported. This condition is stipulated with a view to ensure that the use of foreign brand names does not adversely affect the indigenous industry and for purpose of developing Indian brand names.

SHRI SUBRAMANIAN SWAMY: Sir, why so many Ministers are missing today? Civil Aviation Minister is missing, Energy Minister is missing and Industry Minister is missing. There is a crisis in the Government!

SHRI GURUDAS DAS GUPTA: Sir, there is a statement that the Minister is pleased to lay on the Table of the House. I have gone through the reply. In the second part of the reply, it is stated:

"While granting foreign collaboration approvals, a standard condition is stipulated that foreign brand names will not be allowed for use on the products for internal sales."

May I ask the Minister whether he is aware that there are brand names like Lehar Pepsi, DCM Toyota, Hero-Honda and whether he is also aware that Pepsi is a foreign brand name, Toyota is a foreign brand name and Honda is a foreign brand name? Therefore, the fraud that the big industrialists commit is to add the name of a foreign brand along with the

†The question was actually asked on the floor of the House by Shri Gurudas Das Gupta.